

# **EXHIBIT 3**

Page 1238

1  
2           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE EASTERN DISTRICT OF VIRGINIA  
3           RICHMOND DIVISION

4  
4  
5       ePLUS, INC.,

6    Plaintiff;

7       v.    CIVIL ACTION  
8    3:05CV281

9  
9  
10    Defendants.

11    JURY TRIAL - VOLUME VIII

12    April 10, 2006  
13    Richmond, Virginia  
14    9:30 a.m.

15       BEFORE:    HONORABLE JAMES R. SPENCER  
16    United States District Judge  
17    AND A JURY

18       APPEARANCES:    JENNIFER A. ALBERT, ESQ.  
19    THOMAS J. CAWLEY, ESQ.  
20    MAYA M. ECKSTEIN, ESQ.  
21    SCOTT L. ROBERTSON, ESQ.

22    Counsel for Plaintiff;

23    LLOYD R. DAY, JR., ESQ.  
24    ROBERT GALVIN, ESQ.  
25    DABNEY J. CARR, IV, ESQ.  
26    ROBERT A. ANGLE, ESQ.

27    Counsel for Defendants.

28    JEFFREY B. KULL  
29    OFFICIAL COURT REPORTER.

30  
31       25

Page 1291

1 from February to July, July 1st, around there, so  
 2 somewhere during that time is when we started to run  
 3 into problems.

4 Q Would you highlight the dates on the right of that  
 5 line? I'm sorry, could you tell this to me again?

6 A This is saying February 14th to July 1st is when  
 7 the pilot phase ran.

8 Q Of what year?

9 A 1994. All this was 1994.

10 Q So is it fair to say then that Fisher was aware of  
 11 the need for the super index before July 1st of 1994?

12 A Or around there. Very close to there.

13 Q Could you have built the TV/2 system for use with  
 14 a catalog like Fisher without using something like this  
 15 super index?

16 A You could have certainly built it, but it wouldn't  
 17 be usable system.

18 Q Why not?

19 A Because the searches would be too slow. It would  
 20 be quicker to look in the book.

21 Q Did IBM publicize the use of this super index in  
 22 conjunction with TV/2?

23 A Not to the general public. Fisher knew about it.

24 Q Now, Ms. Eng, we talked about a bunch of  
 25 technologies that I'm sure many of us in this room have

Page 1293

1 that conversion tool, did IBM ever make that publicly  
 2 available other than giving it to Fisher or selling it  
 3 to Fisher?

4 A No.

5 Q And the TV/2 tags that you mentioned, did IBM ever  
 6 publish those or make those publicly available?

7 A As far as I know, all of these things, we just  
 8 gave them to Fisher. Because they weren't really  
 9 publicly available, all the things I just talked

10 about.

11 Q Thank you. Ms. Eng, if you wouldn't mind taking a  
 12 look at Tabs 4 and 5 in your book, these are the '683  
 13 patent and the '516 patent that we have been hearing  
 14 quite a lot about in the Court. And I'd like to ask  
 15 you if you have ever read these patents before.

16 A Yes, I have.

17 Q When did you first see them?

18 A About a month or so ago.

19 Q When you read through these patents, did you  
 20 notice, did either of these patents describe the use of  
 21 a mark-up language to create electronic product  
 22 catalogs for use with TV/2?

23 MR. ROBERTSON: I object. This calls for  
 24 legal conclusions. This witness hasn't offered an  
 25 expert report. There is going to be an expert who is

Page 1292

1 never heard of before today. I'm wondering, did you  
 2 prepare a graphic that can help us summarize all the  
 3 things you were talking about?

4 A I did.

5 Q Would you put up that last graphic. Put up the  
 6 complete graphic. Thank you. Ms. Eng, can you tell  
 7 us, then, looking at the demonstrative Eng 9, which are  
 8 the IBM technologies that a programmer would need to  
 9 know to prepare an electronic catalog that could be  
 10 used by TV/2 working with an ordering system like  
 11 Fisher RIMS?

12 A Okay. You would need, where it says TV/2 tools  
 13 here is really the conversion program I was talking  
 14 about that took the files from the publisher format to  
 15 the TV/2 tags. So you would need to know or have one  
 16 of these conversion programs. You would also need to  
 17 know the tagging language that we used, the GML's of  
 18 the TV/2 extensions, to tag the data. You would have  
 19 to have a TV/2 compiler that produced the .INF file  
 20 with the index and have the super index built into the  
 21 compiler and the TV/2 program. And then you would have  
 22 to have these application programming interfaces,  
 23 API's, so you would be able to grab data from the TV/2  
 24 side to send to the RIMS side.

25 Q So going through those, Ms. Eng, the TV/2 tools,

Page 1294

1 going to be testifying later today addressing a number  
 2 of these issues. This is inappropriate.

3 MS. TURNER: I'm merely asking based on her  
 4 knowledge of the TV/2 program whether those elements  
 5 appear in a patent she read. It is not a legal  
 6 conclusion.

7 THE COURT: I'm going to sustain the  
 8 objection. It really doesn't -- any of us can read it  
 9 and then come to a conclusion. She wouldn't be an  
 10 appropriate witness for it. The objection is  
 11 sustained.

12 BY MS. TURNER:

13 Q Now, Ms. Eng, I'd like to talk to you a little bit  
 14 about a statement you made earlier regarding working  
 15 with IBM for marketing.

16 A Right.

17 Q Were you involved in marketing TV/2 here in the  
 18 United States?

19 A Yes.

20 Q When did you become involved in marketing TV/2  
 21 here?

22 A Probably 1992.

23 Q And how do you know it was around then?

24 A Well, I know it was definitely before Fisher, we  
 25 started with Fisher, and it was before April of 1993

<p style="text-align: right;">Page 1295</p> <p>1 because that's when I had my son. Before I was      2 pregnant with him, I was going around marketing, going      3 to trade shows and things like that.      4 Q You are marketing this TV/2, but to your      5 knowledge, was TV/2 commercially available?      6 A Well, we were marketing TV/2 but we were really      7 marketing it so that we could get service contracts      8 such as the one we did with Fisher, so we could help      9 people get their data into electronic format. We were      10 a Federal Division, I think I mentioned. So we started      11 working with the Navy in contracts that we were working      12 with to try to get their data in. But they were kind      13 of slow to write contracts. So then we started doing      14 it with commercial customers.      15 Q So when you say you were trying to get the service      16 contracts like the one with Fisher, do you recall about      17 how much money the Fisher contract was for?      18 A Not exactly, but probably over like half a      19 million.      20 Q Was TV/2 a final release IBM product?      21 A No. I don't think so. I think Fisher was the      22 first customer really to use it in a production      23 environment.      24 Q Did any other customers to your knowledge ever use      25 TV/2 in a production environment?</p>	<p style="text-align: right;">Page 1297</p> <p>1 them?      2 A I remember one in Texas. I remember one in      3 Washington, D.C. But I don't really remember the      4 specifics.      5 Q That was all around what time frame again?      6 A It was before we started working really heavily on      7 Fisher, so probably 1992, early 1993.      8 Q What kind of materials did you use to help market      9 TV/2?      10 A The video that I mentioned. We had a couple      11 brochures that came from the UK.      12 Q Did any of the marketing materials you just      13 mentioned describe using TV/2 as part of an ordering      14 system or procurement system?      15 A All of those, I believe, did.      16 Q Okay. I'd like to put up Defendant's Exhibit 515      17 if we could. Let's start with that one. Ms. Eng, do      18 you recognize this document?      19 A Yes. This is one of the sales marketing documents      20 from the UK.      21 Q Okay. And does this document discuss anywhere      22 using TV/2 as part of a procurement system?      23 A Yes.      24 Q Can you tell us where?      25 A Do you know which number it is?</p>
<p style="text-align: right;">Page 1296</p> <p>1 A Not that I know of. No.      2 Q Was it an off-the-shelf product?      3 A No. It was more written by the people in the      4 development lab in the UK. They were also trying to      5 get service contracts.      6 Q So was it commercially available as far as you      7 know?      8 A No. Not as far as I know.      9 Q Now, how did IBM market TV/2 in the United      10 States?      11 A In the United States, we went to trade shows. We      12 actually built a video. We were working with the UD      13 and we got some of their sample stuff and we built a      14 few sample demos of our own. We built a video around      15 that. We would go to trade shows. If we got more      16 interest we would go to customer sites and do a little      17 bit more of a demo.      18 Q What customers did you demo this for besides      19 Fisher?      20 A Besides Fisher, we demo'd it to like some      21 equipment manufacturers. Caterpillar I can remember; a      22 couple I don't remember their names. And we did it      23 also for one of the catalogs that sold clothing.      24 Q Now, the trade shows you mentioned, do you recall      25 anywhere, the location of where those were, any of</p>	<p style="text-align: right;">Page 1298</p> <p>1 Q I believe it is Tab 1 in your book.      2 A If you look at a couple pages in to the third      3 page.      4 Q The page ending with the numbers 016 at the      5 bottom?      6 A Yes. Right here, there is a paragraph. It says,      7 You can also create a shopping list just by selecting      8 items and passing that list to another application.      9 For example, you might select parts to be ordered from      10 the exploded drawing in a parts catalog. The parts      11 list could then be sent directly to your parts ordering      12 system, all without moving from your PS/2.      13 Q And was this document given out to anybody here in      14 the U.S.?      15 A Yes. This was part of our marketing material.      16 Q Was it available at the trade shows?      17 A Yes.      18 Q Why don't we take a look at Defendant's Exhibit      19 99. This is Tab 2 in your book. This is the other      20 marketing document that you were mentioning?      21 A Right.      22 Q Does this marketing document also refer to using      23 TV/2 as part of a procurement system?      24 A Yes.      25 Q Take a look at the page ending 078. That's</p>

<p style="text-align: right;">Page 1299</p> <p>1 EPFS000078. At the top it says, About this book. What 2 did you understand to be the purpose of this document? 3 A This really is just general information. It just 4 gives a very high-level view of the Technical Viewer/2, 5 what it can do, the features. 6 Q Does this document describe anywhere the details 7 that you talked about earlier about tags and the 8 compiler? 9 A No. 10 Q And when was this document published? 11 A 1991. 12 Q All right. Ms. Eng, if you could turn, please, to 13 the page ending 083. Is this the page that you were 14 referring to when you said that the document mentioned 15 use with a procurement system? 16 A Right. This is almost the same language as the 17 other one. In the middle here -- 18 Q The part, A basis for application development? 19 A Right. It says, Technical Viewer/2 enables 20 information providers to develop applications around 21 the information to give added value to the user. For 22 example, in addition to finding a part number from a 23 parts catalog, users can extract that information and 24 transfer it electronically to their data processing 25 system. They can then make immediate online requests</p>	<p style="text-align: right;">Page 1301</p> <p>1 A Well, just a high level description of the 2 product, what you can do with it. So it is just kind 3 of like a commercial. We would just keep running it 4 over and over and over and as people walked around they 5 would look at it and if it piqued their interest, they 6 would ask us more questions. Then we also had a 7 computer we took with us and we could actually show 8 them the demo or answer their specific questions about 9 different pieces of the tool. 10 Q Was that video ever shown to Fisher Scientific? 11 A Yes. I think so. 12 Q Now, if we could have Defendant's Exhibit 896, I'm 13 going to play just a couple of minutes of this video. 14 Did it mention use of TV/2 with a parts ordering 15 system? 16 A Yes. 17 Q If we could, Bill, play Defendant's Exhibit 986. 18 (Videotape played.) 19 (Videotape stopped.) 20 BY MS. TURNER: 21 Q Do you recognize this video? 22 A Yes. 23 Q Was that you who appeared in it? 24 A Yes. 25 Q What is this video showing us?</p>
<p style="text-align: right;">Page 1300</p> <p>1 for stock availability and price information. 2 Q So what did you understand this paragraph to be 3 saying TV/2 could be used for? 4 A Well, this is kind of what gave TV/2 its value 5 here. As I said, this is added value to the user. It 6 allowed TV/2 to integrate with other applications. 7 Q Such as what? 8 A An order system, an inventory system. 9 Q You also mentioned a video. Do you recall by any 10 chance the name of that video? 11 A It has a weird name. IETM. 12 Q What does that stand for? 13 A Interactive Electronic Technical Manuals. 14 Q When was that video made? 15 A That video was made before I got pregnant, so 16 sometime in 1992. 17 Q Was that video ever shown to anybody? 18 A Yes. 19 Q To whom? 20 A To the people that we demo'd to. We took it to 21 the trade shows. We took it with us going on customer 22 visits. If we went on a customer visit they might have 23 already seen it because then we did a more in-depth 24 demo. 25 Q How was that video used at trade shows?</p>	<p style="text-align: right;">Page 1302</p> <p>1 A Showing you basically the features of Technical 2 Viewer/2 and what you can do with it, that you could 3 link to another. I know it is an old application. 4 Q Did it say anything about using TV/2 with a parts 5 ordering system? 6 A Yes. In fact, one of our demos, because the UK 7 was trying to market it with a lot of the European auto 8 dealers, that's why we had a lot of parts information 9 in there. 10 Q Did it say anything about using it with a 11 procurement system? 12 A I think it said order inventory. You could use it 13 with ordering. 14 Q Thank you. Now, Ms. Eng, when were you first 15 contacted by anyone regarding this case? 16 A Late last year. 17 Q Who contacted you? 18 A A girl named Christa. 19 Q Was she one of the lawyers for SAP? 20 A Yes. 21 Q And have you met with SAP's attorneys before 22 today? 23 A Yes. 24 Q About how many times? 25 A Three, I think.</p>

<p style="text-align: right;">Page 1335</p> <p>1 TV/2, right?      2 A Specifically for building demos or building      3 data, trying to put data in specific demos.      4 Q So the answer to my question would be yes, it      5 was available to TV/2?      6 A It was available to us internally, yes.      7 Q You're aware that IBM also did demonstrations      8 throughout Europe, correct?      9 A I am aware.      10 Q And made publicly known demonstrations to --      11 are you aware of Volkswagen and Audi?      12 A I don't know the specifics. I know it was      13 the auto industry. But, I don't know specifically      14 which ones.      15 Q And do you know that IBM was marketed at      16 trade shows in Paris in 1990 and 1992?      17 A Not specifically.      18 Q These .INF files, they are a well-known type      19 of format anyway in the '94 time frame, weren't they?      20 A Not that I am aware of.      21 Q You're not aware of?      22 A They were special to TV/2.      23 Q You weren't aware there were other uses for      24 those .INF files in 1994?      25 A No.</p>	<p style="text-align: right;">Page 1337</p> <p>1 for example, that's item number 25, that's not high      2 level, is it?      3 A Right. But, we started the pilot on, right      4 around the time of this document. And we didn't get      5 into that need until somewhere in the pilot. So I      6 don't think it would be in this document.      7 Q There was some testimony in a movie about one      8 of the marketing brochures about utilizing the TV/2 for      9 parts ordering system. Do you recall that?      10 A Yes.      11 Q IBM never built an overall system for      12 requisitioning and purchase orders, checking      13 availability, doing cross-referencing, utilizing the      14 TV/2 engine, did it?      15 A We built a demo system to show that. But, we      16 didn't have a full system. At least we didn't.      17 Q You did that as part of the project with      18 Fisher?      19 A No. We had that before. In the video, that      20 was pre-Fisher. You could see the parts integration,      21 the parts ordering system, you saw the customers and      22 the icons for ordering and loading the customer      23 information.      24 Q Did you ever market that to anybody?      25 A Yeah. That's what we were trying to market</p>
<p style="text-align: right;">Page 1336</p> <p>1 Q You mentioned in Defendant's Exhibit No. 176.      2 Specifically, it was a chart you were referenced to      3 tab, I think, it was Item 39. Do you recall that?      4 A Do you know which tab that is?      5 Q Sorry.      6 A Seven?      7 Q Six, I believe.      8 A Okay.      9 Q I think on that chart it is the third page.      10 Did I understand that -- I think you were directed to      11 by counsel to number 39, left-hand column, is that      12 right?      13 A I don't remember talking about this language.      14 Q Maybe I'm mistaken.      15 A I remember talking about line 38.      16 Q Where was the one you referenced with respect      17 to this so-called super index?      18 A Only thing I referenced in this is the time      19 frame of the pilot which was on page two, the last      20 item, number 34.      21 Q Okay. Now, it doesn't say there anything      22 about a super index, right?      23 A Not on this schedule, no.      24 Q Well, there's some pretty detailed stuff here      25 in this schedule, isn't there? Convert and tag data,</p>	<p style="text-align: right;">Page 1338</p> <p>1 to.      2 Q You were suggesting that would be a use      3 for --      4 A Yes.      5 Q Do you have any documents showing it was ever      6 built by IBM?      7 A It was the demo that was built.      8 Q That was a movie I saw.      9 A And that was showing people running our      10 system that we showed at demonstrations.      11 Q Did it use the TV/2 search engine?      12 A Yes.      13 Q Was this ever publicly offered for sale?      14 A Not that I know of.      15 Q And other than this movie you showed, do you      16 have any documentation it was ever sold?      17 A That it was -- that we had a demo?      18 Q That, was it a demo, only for purposes of      19 demoing?      20 A Yes. It was a figure prototype to show you      21 could link other systems.      22 Q Were you aware in this electronic sourcing      23 chart that a lot of these dates slipped, that is, that      24 they moved further down the line?      25 A They could have moved a little bit. But,</p>

Page 1635

5 ePLUS, INC.

**Plaintiff;**

CIVIL ACTION  
3:05CV281

SAP AMERICA, INC., et al.

**Defendants.**

JURY TRIAL - VOLUME X

April 12, 2006  
Richmond, Virginia  
9:30 a.m.

BEFORE: HONORABLE JAMES R. SPENCER  
United States District Judge  
AND A JURY

APPEARANCES: JENNIFER A. ALBERT, ESQ.  
THOMAS J. CAWLEY, ESQ.  
MAYA M. ECKSTEIN, ESQ.  
SCOTT L. ROBERTSON, ESQ.

Counsel for Plaintiff;

LLOYD R. DAY, JR., ESQ.  
ROBERT GALVIN, ESQ.  
DABNEY J. CARR, IV, ESQ.  
ROBERT A. ANGLE, ESQ.

Counsel for Defendants.

JEFFREY B. KULL  
OFFICIAL COURT REPORTER

<p style="text-align: right;">Page 1768</p> <p>1 (Witness stood aside.)      2 Call your next witness.      3 MR. DAY: SAP calls Preston Staats, Your      4 Honor.      5 PRESTON STAATS,      6 called as a witness by and on behalf of the defendant,      7 having been first duly sworn by the Clerk, was examined      8 and testified as follows:      9 DIRECT EXAMINATION      10 BY MR. DAY:      11 Q Good afternoon, Mr. Staats.      12 A Good afternoon.      13 Q Would you please keep your voice up and speak into      14 the microphone if you could. And introduce yourself to      15 the jury.      16 A Yes, my name is Preston Staats.      17 Q And where do you live, sir?      18 A I live in Austin, Texas.      19 Q How long have you lived in Austin?      20 A I have lived in Austin since 1977.      21 Q Did you go to college?      22 A Yes, I did.      23 Q And where did you go to college?      24 A I went to college in Houston, Texas at Rice      25 University.</p>	<p style="text-align: right;">Page 1770</p> <p>1 A After I left consulting I joined my brother in our      2 company, Cooperative Computing, Inc., or CCI as we      3 referred to it as.      4 Q When was that?      5 A In 1977, early 1977.      6 Q What does CCI stand for?      7 A It stood for Cooperative Computing, Inc. We      8 wanted to provide computer solutions to businesses. We      9 were interested in doing it in a long term basis with      10 our customers in a cooperative manner, not just sell      11 them and then go sell somebody else, so the name was      12 put into the company name, Cooperative Computing.      13 Q And what kinds of businesses did CCI develop      14 computer systems for?      15 A We developed computer systems for people who sold      16 automotive parts.      17 Q How long did you work with CCI?      18 A I worked with CCI until my brother and I sold our      19 interest in the company in 2003.      20 Q And during that time frame, what were your      21 responsibilities at CCI? What was your job? What did      22 you do?      23 A I was co-owner and Executive Vice-president of the      24 company. We used to joke a little bit in the early      25 days about the responsibilities. We were a small</p>
<p style="text-align: right;">Page 1769</p> <p>1 Q After college, what did you do?      2 A After college I was in the U.S. Navy for      3 six-and-a-half years. I served in nuclear submarines.      4 Q Did you graduate from college?      5 A Yes, I have a Bachelor of Science in electrical      6 engineering.      7 Q When did you graduate?      8 A In 1965.      9 Q And when were you in the Navy?      10 A From 1965 until 1971.      11 Q What did you do after the Navy?      12 A I went back to Rice University and received my      13 doctorate in electrical engineering.      14 Q And after you received your doctorate in      15 electrical engineering, what did you do?      16 A I worked as a consulting engineer. I was based in      17 the Washington, D.C. area.      18 Q What kind of consulting did you do?      19 A I worked with other engineers similarly trained as      20 myself. We principally worked for firms that had      21 electric power plants, some nuclear plants, some not.      22 But mostly utilities.      23 Q How long did you work as a consultant?      24 A Between three and four years.      25 Q And what did you do after your consulting work?</p>	<p style="text-align: right;">Page 1771</p> <p>1 start-up company. My brother was responsible for      2 sales. He and I both wrote the computer programs,      3 de-bugged computer programs, and developed the product      4 that we sold, and then I had responsibility for all the      5 other things that go into running a company.      6 Q So give us some examples of the other things that      7 you did.      8 A Sure. Human relations, hiring people, handling      9 payroll, getting paid for the goods and services,      10 sending out the invoices, seeing that we had an office      11 to house ourselves in. Just everything involved in      12 running a business.      13 Q You started this business in 1976-1977, about      14 then?      15 A Yes. The company was formed in late 1976 and I      16 joined in early 1977.      17 Q You sold it in 2003?      18 A Correct.      19 Q When you sold the business, how many employees did      20 you have?      21 A Approximately 2,000 employees.      22 Q Now, during the time frame that you were with CCI,      23 what kinds of computer systems did you develop?      24 A Well, we developed computer systems, as I said,      25 for the automotive after market. I developed some</p>

Page 1772

1 graphics to help me explain to the jury what the  
 2 systems did and how they worked.  
 3 Q How did you prepare these graphics?  
 4 A I was told that I was going to discuss with you  
 5 all and explain how our systems worked. So I put  
 6 together the thoughts and ideas that I wanted to convey  
 7 to you to help understand what I spent 23 years doing.  
 8 And then I worked with the SAP attorneys and their  
 9 graphics artists to actually put these into PowerPoint  
 10 slides.  
 11 Q Did the graphics you prepared reflect your  
 12 products at a point in time prior to August, 1993?  
 13 A Yes, they do.  
 14 Q What steps have you taken to insure that your  
 15 graphics reflect your products as of a time period  
 16 prior to August, 1993?  
 17 A Well, the first part is personal experience. As I  
 18 said, this was a small start-up business. The first  
 19 office we had in Austin, Texas was a spare bedroom in  
 20 my house. I have fond memories of my year-and-a-half  
 21 old son playing on the floor while I wrote computer  
 22 programs and the like in the office. And then the  
 23 other is reviewing manuals and documents that I have  
 24 from those time periods.  
 25 Q As CCI developed these systems over this time

Page 1774

1 industry is that you have got a problem with your car  
 2 and you need to get it fixed so you take it to a  
 3 mechanic. You talk to the mechanic. The mechanic  
 4 decides what work needs to be done. And generally  
 5 speaking, that's going to involve needing some auto  
 6 parts. So he calls an auto parts store and he and the  
 7 auto parts store, they are called jobbers in the trade,  
 8 they talk about the work that's going to be done and  
 9 decide what parts will be required to do the job.  
 10 The next step is that the mechanic knows he needs  
 11 spark plugs, as I pictured here, perhaps a water pump  
 12 if that's the problem. But there are thousands of  
 13 spark plugs on the market, hundreds of water pumps, and  
 14 every one of those doesn't fit in your car. So the  
 15 jobber has got to decide which specific spark plug and  
 16 which specific water pump is the right one for your  
 17 car. Once he does that, which he would do by looking  
 18 through these catalogs that he had in his store –  
 19 Q How would he do that? How would a jobber at that  
 20 point in time identify just the right spark plug for my  
 21 Oldsmobile?  
 22 A Basically, what he would have to do, and these  
 23 catalogs, a typical store would have ten, twelve feet  
 24 of paper catalogs, from me to counsel worth of  
 25 catalogs. First he would have to know what catalog

Page 1773

1 period, did it periodically or routinely prepare  
 2 documentation and manuals about the systems that it  
 3 developed?  
 4 A Yes, we did.  
 5 Q And have you had access to those prior documents  
 6 and manuals?  
 7 A Yes, I have.  
 8 Q Have you produced copies of them in this  
 9 litigation at the request of counsel?  
 10 A Yes, I have.  
 11 Q Well, let's start with your graphics and maybe you  
 12 can tell us a little bit about CCI.  
 13 A Okay.  
 14 Q What are we looking at here?  
 15 A We are looking at a 1982 Oldsmobile, a car that  
 16 would be a classic example of a kind of car that our  
 17 customers would sell auto parts to repair.  
 18 Q And the term J-CON underneath, we are going to be  
 19 talking about the J-CON system?  
 20 A J-CON was a principal product, one of our two  
 21 principal products that we developed. Actually, the  
 22 second product we brought on the market.  
 23 Q When you first joined CCI in 1977, how were auto  
 24 parts typically distributed at that time?  
 25 A Well, let me show you. The basic idea of the

Page 1775

1 contained spark plugs. Then he would go find that  
 2 catalog. Then he would have to read through the  
 3 catalog, find the spark plugs for your car, see if that  
 4 was the right one he was looking for, if he had it. If  
 5 not, he would have to pull down another catalog.  
 6 Perhaps in this case the CarQuest catalog. He would  
 7 look through that catalog until he found the right  
 8 parts. Then he would just repeat this process over and  
 9 over again until he had the specific list of part  
 10 numbers he needed to fix your car today.  
 11 The next step, of course, is to see if he actually  
 12 has those parts. Because again, as I said before, this  
 13 whole process is driven by the fact that you have a  
 14 problem with your car and you want it back this  
 15 afternoon when you get off work. So it is a same-day  
 16 operation. He would check his local inventory.  
 17 Hopefully, he would have all of the parts that he  
 18 needed in his own inventory in his store. If not, he  
 19 would generally check the inventory of the sister  
 20 stores. It is very common for a parts store to have  
 21 two or three other stores that they are affiliated with  
 22 in a close area. If that didn't produce all the parts,  
 23 then he would need to check with his warehouse  
 24 vendors. Since I've shown a picture of a CarQuest auto  
 25 parts store here, the first thing he would do would be

<p style="text-align: right;">Page 1792</p> <p>1 A Yes, it was. In fact, they were eager to 2 subscribe to that. 3 Q When did you integrate PartFinder into the J-CON 4 system? 5 A In 1988. 6 Q Are there any documents that would corroborate the 7 fact that in 1988, the PartFinder database was 8 integrated into J-CON? 9 A Yes, I do have some documents that I have 10 provided. 11 Q Bill, would you bring up, I think it is 12 Defendant's Exhibit 92, which is the PartFinder 13 manual. Now, first all, Dr. Staats, I think you have 14 some notebooks there of exhibits. 15 A Yes, I do. 16 Q And could you just show the jury if you would, 17 please, how extensive the PartFinder manual is? I 18 think it is Tab 10 in the notebook. 19 A Oh, in the first book. 20 Q It would be in Volume I. 21 A Yes, okay. This is quite a task here. This is 22 the PartFinder. Let's see, yes, this is the manual for 23 using PartFinder. Actually, the date on it, it is the 24 revised version from October of 1989. You can see it 25 is -- that's the manual right there.</p>	<p style="text-align: right;">Page 1794</p> <p>1 smaller than the paper catalogs we replaced, but we 2 really didn't want them to have to go look in paper 3 catalogs at all. We wanted them to use the computer. 4 Q Return to Point-Of-Sale. Point-Of-Sale was a 5 component in J-CON, right? 6 A Point-Of-Sale was a component of J-CON. It was 7 the program that you actually used to display the parts 8 that were necessary to fix the car the mechanic was 9 trying to repair, yes. 10 Q It is from Point-Of-Sale and then J-CON where you 11 could then check inventory, check price, place orders 12 to the warehouse? 13 A Yes. 14 Q We are going to walk through this in some detail 15 in a moment. I just wanted to give a little overview 16 of what we are looking at here. Could you turn, 17 please, Bill, to Page 9073. And the first paragraph in 18 particular, if you could just pull up the title of the 19 paragraph. Now, did you actually call the PartFinder 20 database an electronic catalog? 21 A Yes, we did. As I said, we called it the 22 electronic catalog. Maybe we were a bit presumptuous, 23 but it was our electronic catalog available to our 24 customers, yes. 25 Q Is this the overall general description that was</p>
<p style="text-align: right;">Page 1793</p> <p>1 Q That's Defendant's Exhibit 92, and we have a cover 2 of it up on the screen here. 3 A Yes, it is. 4 Q Could we look at the table of contents of this 5 manual, and if you could blow that up for us a little 6 bit, the whole table of contents, see what the subjects 7 are that the manual addressed. Please explain this. 8 A First, there is the introduction, it is 9 PartFinder, CCI's Electronic Catalog. We discussed how 10 it organizes parts into part groups. That's groups of 11 catalogs. Then it talks about how to use PartFinder to 12 display and sell parts. That's to find the parts that 13 we need to fix your car this afternoon. It talks about 14 starting PartFinder. You are typically in the 15 Point-Of-Sale screen where you have started to enter 16 the information for the repair of your car. You move 17 to PartFinder, and then you select your catalogs. I'll 18 talk about this more later. The search criteria, so 19 selecting parts. And then after you have selected the 20 parts that will do the job for your car, it talks about 21 returning to Point-Of-Sale with those parts, and then 22 some shortcuts and on-screen help, which I might add in 23 1988 was kind of crude compared to what you see today, 24 but it was there nevertheless because this manual, we 25 tried to have them not have to go take -- this is a lot</p>	<p style="text-align: right;">Page 1795</p> <p>1 published by CCI in your manuals? 2 A This is directly out of our manual. It is says, 3 PartFinder is J-CON's electronic catalog system that 4 you use together with Point-Of-Sale. You use it to 5 look up parts and sell them. With PartFinder, you can 6 forget that time-consuming search through 7 manufacturers' catalogs. They can just work on the 8 keyboard of the computer, find the parts needed to fix 9 your car, get those parts out to them. 10 Q By when was J-CON with PartFinder on sale in the 11 United States? 12 A 1988. 13 Q Could we have Defendant's Exhibit 1032. And would 14 you please tell the jury what Defendant's Exhibit 1032 15 is? 16 A This is a PartFinder enrollment form. This is a 17 form that we actually developed to help our customers 18 sign up for PartFinder, let us know what electronic 19 catalogs they wanted to have, and as you mentioned, we 20 did charge for this service. So it set up how we were 21 going to do that. 22 Q Could we have Page 641 of this, please? So what 23 did this enrollment form do? What was this for? 24 A This enrollment form, actually, we would send out. 25 Because catalogs, as I said, were replaced on a yearly</p>

<p style="text-align: right;">Page 1796</p> <p>1 basis, but that doesn't mean it was done on the 1st of      2 January every year. It happened all throughout the      3 year. So every month we would send an updated database      4 to our customers. We needed to know where to send it.      5 Of course we did pay for it, or they paid for it, so we      6 wanted billing information. Then if you look on the      7 rest of the form below that, you can see this middle      8 section, the part that says J-CON Equipment      9 Information, PartFinder Terminal Assignment, and the      10 like.</p> <p>11 Q Does this --</p> <p>12 A I was going to say this just shows, you know, what      13 tailored this product so we could deliver it on the      14 right type of tape format, the right kind of computer,      15 and then which terminals, which CRT's were going to be      16 set up to run PartFinder. So this enrollment form gave      17 us the ability to do everything we needed to deliver      18 this product and make it work for our customers.</p> <p>19 Q You said that PartFinder, J-CON with PartFinder      20 was on sale by 1988.</p> <p>21 A Yes, it was.</p> <p>22 Q How many, approximately by 1988, how many J-CON      23 customers did you have, did CCI have, who had installed      24 J-CON systems in the U.S.?</p> <p>25 A In 1988, somewhere between 4,000 and 6,000 J-CON</p>	<p style="text-align: right;">Page 1798</p> <p>1 A Yes.</p> <p>2 Q Did the manual actually detail the screenshots      3 that a user of a PartFinder catalog could use to      4 interact with the system?</p> <p>5 A Yes, it did. The idea of this manual was a      6 training manual so that a counterman could use this      7 manual to learn how to use PartFinder. And some of      8 these screenshots are ones that I have put into my      9 graphics to explain to the jury how the process      10 worked.</p> <p>11 Q Okay. By 1989, did J-CON with PartFinder maintain      12 electronic catalogs on a database?</p> <p>13 A Absolutely.</p> <p>14 Q Did the electronic catalogs in PartFinder contain      15 items for sale?</p> <p>16 A Yes, they did.</p> <p>17 Q Were those items associated with their respective      18 sources in the J-CON system?</p> <p>19 A Yes, they were.</p> <p>20 Q What sources were they associated with?</p> <p>21 A They were associated with manufacturers and with      22 vendors.</p> <p>23 Q In what way was the item associated with its      24 manufacturer?</p> <p>25 A The part was associated with the manufacturer</p>
<p style="text-align: right;">Page 1797</p> <p>1 systems.</p> <p>2 Q All over the U.S.?</p> <p>3 A All over the U.S. Yes, all over the U.S.</p> <p>4 Q And by 1990, how many J-CON systems had PartFinder      5 installed and were running?</p> <p>6 A Between 1,000 and 2,000. This was a product our      7 customer base was really looking for and adopting.</p> <p>8 Q Bill, if we could go back to Defendant's Exhibit      9 92. We are going to be looking at a moment at some      10 screenshots. Do you have an ability to just walk      11 through the document? If you could just give the jury      12 and us just an overview, four or five seconds of this,      13 what this document looks like. By the way, Dr. Staats,      14 as we are looking at this, who prepared and wrote these      15 manuals?</p> <p>16 A By this time in our company's history we actually      17 had a couple of people who worked for us that wrote the      18 manuals. In the early days, that was another one of my      19 duties that I was delighted to give up.</p> <p>20 Q By this time --</p> <p>21 A We had a couple people that actually that was      22 their job, was to write manuals for our company.</p> <p>22 Q We are looking, as we go through this document, we      23 are seeing a couple of screenshots, drawings of      24 screenshots here.</p>	<p style="text-align: right;">Page 1799</p> <p>1 because it was actually in that manufacturer's      2 electronic catalog in our database.</p> <p>3 Q In what way was an item associated with its      4 vendor?</p> <p>5 A Every manufacturer was associated with a vendor      6 that the auto parts store bought those parts from.</p> <p>7 Q Now, if a J-CON user wanted to identify the vendor      8 for a particular product in the PartFinder database,      9 was he able to do that in 1988?</p> <p>10 A Absolutely.</p> <p>11 Q In 1988 was it possible to search only selected      12 portions of the PartFinder database if you wanted?</p> <p>13 A Yes, it was.</p> <p>14 Q In 1988 was it possible for a PartFinder user to      15 select a particular subset of manufacturer catalogs to      16 search?</p> <p>17 A Yes, it was.</p> <p>18 Q In 1988, were there any criteria associated with      19 the product catalogs in PartFinder that allowed a user      20 of the system to select specific catalogs to search?</p> <p>21 A Yes, there were.</p> <p>22 Q What data from the product catalogs did the      23 PartFinder electronic catalog include?</p> <p>24 A It included all of the data in these catalogs.</p> <p>25 Q So everything in those catalogs was included?</p>

<p style="text-align: right;">Page 1812</p> <p>1 Q And now we are looking in a different exhibit. We 2 are looking at Exhibit 185. Could you bring that up, 3 Bill, please, what Defendant's Exhibit 185 is? Could 4 you also blow up the date at the bottom? So this is an 5 April, 1994 version of the J-CON manual, Volume I? 6 A That is correct. 7 Q Can you tell us why you are using this document 8 for these screenshots? 9 A Yes. This is the oldest document I have that 10 actually shows what the screen looked like on a 11 warehouse inquiry. 12 Q Okay. And do you have -- were you able to find 13 any earlier documents than this document that 14 illustrated what the screen looked like on a warehouse 15 inquiry? 16 A No, I was not. 17 Q But was this functionality installed and in place 18 in J-CON as of 1992? 19 A This functionality was absolutely on the J-CON 20 system as of 1992. And in fact, it looked like this. 21 Our customers were charter members of the If It Ain't 22 Broke Don't Fix It Club. They wanted new stuff. They 23 didn't want us going back and touching old stuff. 24 Q I think you said 1992. 25 A Quite frankly, I think 1988. It was in there as</p>	<p style="text-align: right;">Page 1814</p> <p>1 Q And how would you check inventory of the 2 non-affiliated warehouse? 3 A It is actually very similar. This part here that 4 I am displaying is an Auto Value rotor. It is not 5 going to be at the CarQuest warehouse. You have to go 6 to the Auto Value warehouse for that. Highlight it. 7 You enter a code, single letter code for the Auto Value 8 warehouse and press F10, and it contacts the Auto Value 9 warehouse. And then you go through the same process. 10 You can see now you are talking about the Auto Value 11 warehouse. It shows you the availability and price. 12 It is the same screen. It is the same type computer. 13 Everything is the same. You are just talking to 14 somebody else doing the same thing. Enter End. You 15 have generated a second purchase order to a second 16 computer at a second location, the Auto Value 17 warehouse. It returns control back to the J-CON 18 system. You have completed ordering the parts to 19 repair your car this afternoon. 20 Q Now, in 1989, were users of the J-CON system able 21 to check -- strike that. When you punched out to an 22 A-DIS system at a remote warehouse, whether it was a 23 competing vendor or an affiliated vendor, did J-CON 24 automatically fill the warehouse inquiry screen with 25 data related to the selected part?</p>
<p style="text-align: right;">Page 1813</p> <p>1 of 1988. 2 Q As of 1988? 3 A Absolutely. 4 Q So I'm sorry now, let's go back to your 5 presentation. 6 A This is what it looked like. What it showed was 7 the warehouse you were connected to. It showed your 8 selected part. Now remember, this is the J-CON 9 computer that you are looking at, but it is running on 10 the A-DIS computer at the warehouse. It shows the 11 quantity available at the warehouse. They have got 408 12 of this part that you didn't have any of. It shows 13 that the dealer, that's the jobber, is going to pay 14 \$.94 for this part. There's six of them that you 15 want. Therefore, you are going to pay a total of 16 \$5.64. And it would then go to this item prompt and if 17 you type the word End, it generates a purchase order to 18 the CarQuest warehouse, and return control back to the 19 J-CON system. And now you have ordered the first part 20 on that screen. 21 Q That was a way to check inventory at an affiliated 22 warehouse, just by pressing the F10 key. And that 23 would immediately go out and check electronically the 24 inventory for that selected part? 25 A That is correct.</p>	<p style="text-align: right;">Page 1815</p> <p>1 A Yes. 2 Q And these warehouses' databases were maintained 3 separately from the databases in J-CON? 4 A Yes. They were different databases. 5 Q Are there any documents that show what warehouse 6 inquiry functionality existed in J-CON prior to August, 7 1994? 8 A Yes. 9 Q So let's bring up Defendant's Exhibit 1037 first 10 of all, if we could. And if you can go to Page 069. 11 This is the J-CON RDB guide dated March, 1993. Can you 12 tell us what this document is? 13 A This is a book, training manual basically, that we 14 developed and put out in March of 1993 for the jobbers 15 who were using J-CON to assist them in training new 16 employees and learning how to use the J-CON system in 17 their store. 18 Q Go to Page 90 in this, please. Bates Number 90. 19 And can you tell us, Dr. Staats, what we are looking at 20 here? 21 A Well, it is talking about warehouse inquiry. It 22 indicates that if you have a serving warehouse, you can 23 check the price and availability of a part not in your 24 stock. And you can also order those parts if you need 25 them. And then the page discusses one way of doing</p>

<p style="text-align: right;">Page 1816</p> <p>1 warehouse inquiry of which there were a number, and 2 indicates there's other ways to do it as well. 3 Q Okay. And do you have any examples of how a 4 warehouse inquiry screen was used in the United States 5 prior to August, 1994? 6 A The only picture I have is the August, 1994 7 picture. 8 Q Is that Defendant's Exhibit 185? 9 A That was a while ago. 10 Q February of 1994? 11 A Yes, February of 1994 J-CON manual, yes. 12 Q Let's bring that up and take a look at Page 13 7586. That's the manual. And if we could look at Page 14 7720 of the manual. And if we could pull up the 15 writing above it, not just the screen. So what does 16 this portion of the manual describe, Dr. Staats? 17 A What it is talking here about is that if you are -- 18 going to inquire into other than your primary vendor -- 19 I'm sorry. This is showing that if you start warehouse 20 inquiry not from Point-Of-Sale but from the main menu 21 of the J-CON system, you actually have to enter the 22 vendor number to do it, and then, or it says you can 23 just hit Enter if it is your default vendor and it 24 shows you the screen. 25 Q Let's go back to your architecture diagram if we</p>	<p style="text-align: right;">Page 1818</p> <p>1 structure into the J-CON system, but the jobber himself 2 had to actually make the association between a CarQuest 3 CQ68 and an Auto Value 51791. We gave them the tools 4 to do it, but they had to actually do it. 5 Q So the determination of what part was equivalent 6 to another part had to be made by the jobber and 7 entered into the system? 8 A Correct. 9 Q Once the jobber entered that information into the 10 system, the system then determined for the jobber what 11 parts were equivalent? 12 A Absolutely. After that, it was an automatic 13 process. 14 Q Is the alternate part functionality described in 15 any of the J-CON manuals? 16 A Yes, it is. 17 Q Let's take a look at Defendant's Exhibit 91, 18 please. What is this manual? 19 A This is the Point-Of-Sale manual for J-CON. 20 Q And could we take a look at the table of 21 contents? Then just bring up the date first. 22 A This happens to be that first manual we discussed 23 earlier, the October of 1989 date. It was the same as 24 the date of the PartFinder manual we looked at before. 25 Q All right. And if we could look at Page 9012.</p>
<p style="text-align: right;">Page 1817</p> <p>1 could. 2 A Certainly. 3 Q And you have on the J-CON system above PartFinder 4 an alternate parts file depicted there. 5 A Yes, I do. 6 Q You also have that in the warehouse host. 7 A That is correct. 8 Q Could you please explain what that is and what it 9 was used for? 10 A Certainly. Alternate part file was a part file 11 that was used in case PartFinder or your mechanic 12 requested a particular part for the repair of your car 13 and that part wasn't available. Let's take for 14 example, the CarQuest filter, CQ68. The system would 15 automatically recommend a competing equivalent part 16 that could be used in its place. The first example of 17 that CarQuest CQ68 filter could be instead you could 18 use the Auto Value 51791. As you can see by the 19 picture going down, it repeated over and over and over 20 for various other CarQuest parts. There would be Auto 21 Value parts you could use that were equivalent. And 22 you could use them in case you didn't have the CarQuest 23 part. 24 Q Who built these cross-reference tables? 25 A CCI built the computer programs and the data file</p>	<p style="text-align: right;">Page 1819</p> <p>1 There you go. First half of the page. You see a 2 reference to alternate parts overview. 3 A Yes. As it says here, there are times when you 4 don't have enough of a certain part to fill a 5 customer's need. However, there may be another part 6 that will fit the application and enable you to make 7 the sale. For each part, you can set up an alternate 8 part. Then, in Point-Of-Sale, you can substitute the 9 alternate part whenever you do not have enough of the 10 original to fill the needed order. It did that 11 automatically. 12 Q How did it do it? 13 A Well, the computer database had the two parts tied 14 together, and if you entered an order for the first 15 part and it didn't have as many as you asked for, it 16 just automatically went and checked the second part. 17 Q Go to a look-up table and see a cross-reference to 18 an equivalent part and then return that part? 19 A Absolutely. We run the computer code to do that 20 automatically. 21 Q In 1989, did the J-CON alternate parts function 22 provide the ability to substitute an equivalent part 23 for a selected part? 24 A Yes, it did. 25 Q And would the alternate part be from a different</p>